City of Lafayette Committee Report

For:	City Council
By:	City Charter and Communication Committee
Date Written:	**May 5, 2009**
Meeting Date:	May 11, 2009
Subject:	Timeline, Process, and Discussion of Council Expectations

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Background

One of the Lafayette Finance Review Committee's (LFRC) recommendations in December 2008 was for the City to investigate the option of becoming a charter city. The LFRC cited the ability to increase the Property Tax Transfer rate as a primary advantage of charter cities and suggested that such a change might provide a substantial source of revenue that could help fund police, roads and other municipal services.

The Council appointed 10 members to the Committee as follows:

- Sereta Churchill
- Rod De La Rosa
- Dan Deitrick
- Reid Edwards
- Judy Garvens
- James Hamill
- Elizabeth Johnson
- Cheryl Noll
- Yolanda Vega
- Greg Woehrle

The Committee will have met four times by the date of the Council meeting and will report on the timeline and process for making its recommendation in September 2009.

Recommendation

Review the process and timeline. Discuss and direct the Committee.

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Lafayette Charter & Communication Committee
Meeting Minutes – April 23, 2009

Attendees:
Mayor Don Tatzin
Rod De La Rosa
Cheryl Noll
Yolanda Vega
Elizabeth Johnson
Greg Woehrle
Dan Deitrick
James Hamill
Tracy Robinson (staff)

The meeting was called to order by Mayor Tatzin. There was a discussion of the duties and responsibilities of the Chair and Co-Chair positions.

It was moved, seconded and approved that Cheryl Noll and Yolanda Vega be appointed Chair and Co-Chair respectively.

The Committee then discussed the basic tasks of the Committee. It was agreed that the Committee would select a number of Charter cities to interview in order to gain more specific knowledge about the pros and cons of being a Charter city. The research would also seek to get information about the process of becoming a Charter city, specifically from those Cities that have recently been successful in changing their status from General Law cities.

The group reviewed the list of 114 Charter cities and picked 20 cities to interview. The criteria for choosing cities included those with whom Committee members had personal contacts, cities that the Committee felt Lafayette residents might aspire to emulate as well as a few specific cities Lafayette would not want to imitate.

The Committee then assigned members to each City for additional research. The responsibility for each member would be to obtain the specific charter for each City, read the charters and develop a series of questions for an interview guide. The members would then be tasked with interviewing the cities, preferably in pairs and in person if possible.

A general timeline and tasks for the Committee were set as follows:

May 1-15: Develop interview guide / questionnaire.
May 15-30: Conduct interviews
June 1-15: Discuss results and come to preliminary consensus
June15-September: Conduct additional research and begin preparation of report / supplemental information
September: Present findings to the City Council

The Committee also decided that they would go before the City Council at their May 11th meeting to ask for their input.

The group then discussed the future meeting schedule and agreed to meet each Thursday night at 6 pm until further notice. It was also agreed that the meetings would be kept to a maximum of 90 minutes as long as the weekly schedule continued.

City Assignments:

Alameda – Elizabeth
Berkeley – Reid
Carlsbad – James
Del Mar – Dan
Folsom – Yolanda
Indian Wells – Don
Monterey – Greg
Napa – Don
Newport Beach – TBD
Oakland – Rod
Palo Alto – Reid
Piedmont – Don / Greg
Redwood City – Elizabeth
Sacramento – Elizabeth / Yolanda
San Luis Obispo – Cheryl
San Rafael – TBD
San Ramon – Cheryl
Santa Barbara – James
Vallejo – Don / Tracy

The next meeting was scheduled for April 30th at 6pm.
The meeting adjourned at 7:30 pm.

Lafayette Charter & Communication Committee
Meeting Minutes – April 30, 2009

Attendees:
Mayor Don Tatzin
Rod De La Rosa
Cheryl Noll
Yolanda Vega
Elizabeth Johnson
Greg Woehrle
Judy Garvens
Sereta Churchill
Tracy Robinson (staff)

The meeting was called to order by Chair Noll. The committee made introductions and reviewed the minutes of the last meeting including the timeline for deliverables.

Additional charter cities to research were assigned as follows:

- Judy Garvens – San Rafael, Santa Barbara
- Sereta Churchill – Newport Beach, Indian Wells

The committee continued to discuss in more detail the questionnaire that would be used to interview cities. It was confirmed that a good way to frame the questions, and probably the subsequent analysis, would be pros vs. cons. Don volunteered to collate all the questions into a single document to be reviewed at the next meeting. Members were encouraged to send additional questions to Tracy to pass on to Don.

The committee also discussed that it would be useful to talk to more cities that have recently changed to a charter and Judy volunteered to call several cities on the list that James provided.

Tracy was assigned the task of gathering demographic information for the cities the group is researching. Tracy will also set up a conference call account so that it will be easier for pairs of committee members to interview cities together.

Tracy was also assigned the task of researching the failed attempts in Davis and Rosemead.

The next meeting was scheduled for May 6th at 6pm.
The meeting adjourned at 7:25 pm.

Did you know that, under certain home rule provisions in California's state constitution, voters can exercise a greater degree of local control than that provided by the California Legislature ? Becoming a charter city allows voters to determine how their city government is organized and, with respect to municipal affairs, enact legislation different than that adopted by the state.

In 2001, the Institute for Local Government, the League's research arm, teamed up with the Hastings Public Law Research Institute to create an informational resource for those interested in understanding more about this special form of local control. The League is grateful to everyone who helped with this project including Phillip Hall of UC Hastings and the Hastings Public Law Research Institute; Karl Berger of Jenkins & Hogin LLP; Betsy Strauss (Attorney at Law); John Cook (Former City Attorney, Indian Wells); and Harvey Levine (City Attorney, Fremont). In 2007, the League updated these resources and the new documents can be found below. The League would like to thank Hilda Cantú Montoy, of Dowling, Aaron & Keeler, Inc., for her help with the update.

Charter Cities: A Quick Summary for the Press and Researchers

The following summary was drafted by the League of California Cities' legal staff, in an attempt to give the press and research communities a primer on some frequently asked questions regarding charter cities.

Charter Cities vs. General Law Cities – The Basics

The California Constitution gives cities the power to become charter cities.[1] The benefit of becoming a charter city is that charter cities have supreme authority over "municipal affairs."[2] In other words, a charter city's law concerning a municipal affair will trump a state law governing the same topic.[3]

Cities that have not adopted a charter are general law cities. General law cities are bound by the state's general law, even with respect to municipal affairs. Of California's 478 cities, 108 of them are charter cities. The charter city provision of the State Constitution, commonly referred to as the "home-rule" provision, is based on the principle that a city, rather than the state, is in the best position to know what it needs and how to satisfy those needs.[4] The home-rule provision allows charter cities to conduct their own business and control their own affairs.[5] A charter maximizes local control.

A city charter, in effect a city's constitution, need not set out every municipal affair the city would like to govern. So long as the charter contains a declaration that the city intends to avail itself of the full power provided by the California Constitution, any city ordinance that regulates a municipal affair will govern over a general law of the state.[6]

Defining 'Municipal Affairs'

Determining what is and is not a "municipal affair" is not always straightforward. The California Constitution does not define "municipal affair." It does, however, set out a nonexclusive list of four "core" categories that are, by definition, municipal affairs.[7]

These categories are 1) regulation of the "city police force"; 2) "subgovernment in all or part of a city"; 3) "conduct of city elections"; and 4) "the manner in which . . . municipal officers [are] elected."[8] Beyond this list, it is up to the courts to determine what is and is not a municipal affair.

To determine if a matter is a municipal affair, a court will ask whether there are good reasons, grounded on statewide interests, for the state law to preempt a local law.[9] In other words, courts will ask whether there is a need for "paramount state control" in the particular area of law.[10] The Legislature's intent when enacting a specific law is not determinative.[11]

The concept of "municipal affairs" is fluid and may change over time.[12] Issues that are municipal affairs today could become areas of statewide concern in the future.[13] Nonetheless, there are some areas that courts have consistently classified as municipal affairs. These include:

- Municipal election matters[14]
- Land use and zoning decisions (with some exceptions)[15]
- How a city spends its tax dollars[16]
- Municipal contracts, provided the charter or a city ordinance exempts the city from the Public Contract Code, and the subject matter of the bid constitutes a municipal affair.[17] Thus, a charter may exempt a city from the State's competitive bidding statutes.

Likewise, there are some areas that courts have consistently classified as areas of statewide concern, including:

- Traffic and vehicle regulation[18]
- Tort claims against a governmental entity[19]
- Regulation of school systems[20]

How to Become a Charter City

To become a charter city, a city must adopt a charter. There are two ways to adopt a charter:

- The city's voters elect a charter commission.[21] The commission has the responsibility of drafting and debating the charter.

- The governing board of the city, on its own motion, drafts the charter.[22]

In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.[23] *For more information about charter cities, please visit the "Charter Cities" section of the League's Web site at http://www.cacities.org/chartercities.*

[1] Cal. Const. art. XI, § 3(a).
[2] Cal. Const. art. XI, § 5(a).
[3] *Johnson v. Bradley*, 4 Cal. 4th 389, 399 (1992).
[4] *Fragley v. Phelan*, 126 Cal. 383, 387 (1899).
[5] *Id.*
[6] There are some exceptions to this rule. For example, a charter city is bound by the Public Contract Code unless the city's charter expressly exempts the city from the Code's provisions or a city ordinance conflicts with a provision in the Code. *See* Cal. Pub. Cont. Code § 1100.7.
[7] Cal. Const. art. XI, § 5(b); *Johnson*, 4 Cal. 4th at 398.
[8] Cal. Const. art. XI, § 5(b).
[9] *Johnson*, 4 Cal. 4th at 405.
[10] *Id.* at 400.
[11] *Id.* at 405.
[12] *Cal. Fed. Savings & Loan Ass'n v. City of Los Angeles*, 54 Cal. 3d 1, 16 (1991); *Isaac v. City of Los Angeles*, 66 Cal. App. 4th 586, 599 (1998).
[13] *Isaac*, 66 Cal. App. 4th at 599.
[14] *Mackey v. Thiel*, 262 Cal. App. 2d 362, 365 (1968).
[15] *See Brougher v. Bd. of Pub. Works*, 205 Cal. 426, 440 (1928).
[16] *Johnson*, 4 Cal. 4th at 407.
[17] Pub. Cont. Code § 1100.7; *R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188, 1191 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38, 51 (1998).
[18] Cal. Veh. Code § 21.
[19] *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).
[20] *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).
[21] Cal. Gov't Code § 34451.
[22] Cal. Gov't Code § 34458.
[23] Cal. Gov't Code §§ 34457, 34462.

General Law City v. Charter City

Characteristic	General Law City	Charter City
Ability to Govern Municipal Affairs	Bound by the state's general law, regardless of whether the subject concerns a municipal affair.	Has supreme authority over "municipal affairs." Cal. Const. art. XI, § 5(b).
Form of Government	State law describes the city's form of government For example, Government Code section 36501 authorizes general law cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law. City electors may adopt ordinance which provides for a different number of council members. Cal. Gov't section 34871. The Government Code also authorizes the "city manager" form of government. Cal. Gov't Code § 34851.	Charter can provide for any form of government including the "strong mayor," and "city manager" forms. *See* Cal. Const. art. XI, § 5(b); Cal. Gov't Code § 34450 *et seq.*
Elections Generally	Municipal elections conducted in accordance with the California Elections Code. Cal. Elec. Code §§ 10101 *et seq.*.	Not bound by the California Elections Code. May establish own election dates, rules, and procedures. *See* Cal. Const. art. XI, § 5(b); Cal. Elec. Code §§ 10101 *et seq.*.
Methods of Elections	Generally holds at-large elections whereby voters vote for any candidate on the ballot. Cities may also choose to elect the city council "by" or "from" districts, so long as the election system has been established by ordinance and approved by the voters. Cal. Gov't Code § 34871. Mayor may be elected by the city council or by vote of the people. Cal. Gov't Code §§ 34902.	May establish procedures for selecting officers. May hold at-large or district elections. *See* Cal. Const. art. XI, § 5(b).

Characteristic	General Law City	Charter City
City Council Member Qualifications	Minimum qualifications are: 1. United States citizen 2. At least 18 years old 3. Registered voter 4. Resident of the city at least 15 days prior to the election and throughout his or her term 5. If elected by or from a district, be a resident of the geographical area comprising the district from which he or she is elected. Cal. Elec. Code § 321; Cal. Gov't Code §§ 34882, 36502; 87 Cal. Op. Att'y Gen. 30 (2004).	Can establish own criteria for city office provided it does not violate the U.S. Constitution. Cal. Const. art. XI, § 5(b), 82 Cal. Op. Att'y Gen. 6, 8 (1999).
Public Funds for Candidate in Municipal Elections	No public officer shall expend and no candidate shall accept public money for the purpose of seeking elected office. Cal. Gov't Code § 85300.	Public financing of election campaigns is lawful. *Johnson v. Bradley*, 4 Cal. 4th 389 (1992).
Term Limits	May provide for term limits. Cal. Gov't Code § 36502(b).	May provide for term limits. Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36502 (b).
Vacancies and Termination of Office	An office becomes vacant in several instances including death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, and upon non-residency. Cal. Gov't Code §§ 1770, 36502, 36513.	May establish criteria for vacating and terminating city offices so long as it does not violate the state and federal constitutions. Cal. Const. art. XI, § 5(b).
Council Member Compensation and Expense Reimbursement	Salary-ceiling is set by city population and salary increases set by state law except for compensation established by city electors. *See* Cal. Gov't Code § 36516. If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. *See* Cal. Gov't Code §§ 53234 - 53235.	May establish council members' salaries. *See* Cal. Const. art. XI, § 5(b). If a city provides any type of compensation or payment of expenses to council members, then all council members are required to have two hours of ethics training. *See* Cal. Gov't Code §§ 53234 - 53235.

Characteristic	General Law City	Charter City
Legislative Authority	Ordinances may not be passed within five days of introduction unless they are urgency ordinances. Cal. Gov't Code § 36934. Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage except when, after reading the title, further reading is waived. Cal. Gov't Code § 36934.	May establish procedures for enacting local ordinances. *Brougher v. Bd. of Public Works*, 205 Cal. 426 (1928).
Resolutions	May establish rules regarding the procedures for adopting, amending or repealing resolutions.	May establish procedures for adopting, amending or repealing resolutions. *Brougher v. Bd. of Public Works*, 205 Cal. 426 (1928).
Quorum and Voting Requirements	A majority of the city council constitutes a quorum for transaction of business. Cal. Gov't Code § 36810. All ordinances, resolutions, and orders for the payment of money require a recorded majority vote of the total membership of the city council. Cal. Gov't Code § 36936. Specific legislation requires supermajority votes for certain actions.	May establish own procedures and quorum requirements. However, certain legislation requiring supermajority votes is applicable to charter cities. For example, see California Code of Civil Procedure section 1245.240 requiring a vote of two-thirds of all the members of the governing body unless a greater vote is required by charter.
Rules Governing Procedure and Decorum	Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a). Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 *et seq.*.	Ralph Brown Act is applicable. Cal. Gov't Code §§ 54951, 54953(a). Conflict of interest laws are applicable. See Cal. Gov't Code § 87300 *et seq.*. May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.

Characteristic	General Law City	Charter City
Personnel Matters	May establish standards, requirements and procedures for hiring personnel consistent with Government Code requirements. May have "civil service" system, which includes comprehensive procedures for recruitment, hiring, testing and promotion. See Cal. Gov't Code § 45000 et seq. Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500. Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, § 10(b).	May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for personnel. *See* Cal. Const. art. XI, § 5(b). Meyers-Milias-Brown Act applies. Cal. Gov't Code § 3500. Cannot require employees be residents of the city, but can require them to reside within a reasonable and specific distance of their place of employment. Cal. Const. art. XI, section 10(b).
Contracting Services	Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. *See* Cal. Gov't Code § 37103; *Carruth v. City of Madera*, 233 Cal. App. 2d 688 (1965).	Full authority to contract consistent with charter. May transfer some of its functions to the county including tax collection, assessment collection and sale of property for non-payment of taxes and assessments. Cal. Gov't Code §§ 51330, 51334, 51335.
Public Contracts	Competitive bidding required for public works contracts over $5,000. Cal. Pub. Cont. Code § 20162. Such contracts must be awarded to the lowest responsible bidder. Pub. Cont. Code § 20162. If city elects subject itself to uniform construction accounting procedures, less formal procedures may be available for contracts less than $100,000. *See* Cal. Pub. Cont. Code §§ 22000, 22032. Contracts for professional services such as private architectural, landscape architectural, engineering, environmental, land surveying, or construction management firms need not be competitively bid, but must be awarded on basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of services. Cal. Gov't Code § 4526.	Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes, and the subject matter of the bid constitutes a municipal affair. Pub. Cont. Code § 1100.7; s*ee R & A Vending Services, Inc. v. City of Los Angeles*, 172 Cal. App. 3d 1188 (1985); *Howard Contracting, Inc. v. G.A. MacDonald Constr. Co.*, 71 Cal. App. 4th 38 (1998).

Characteristic	General Law City	Charter City
Payment of Prevailing Wages	In general, prevailing wages must be paid on public works projects over $1,000. Cal. Lab. Code § 1771. Higher thresholds apply ($15,000 or $25,000) if the public entity has adopted a special labor compliance program. *See* Cal. Labor Code § 1771.5(a)-(c).	Historically, charter cities have not been bound by state law prevailing-wage requirements so long as the project is a municipal affair, and not one funded by state or federal grants. *Vial v. City of San Diego*, 122 Cal. App. 3d 346, 348 (1981). However, there is a growing trend on the part of the courts and the Legislature to expand the applicability of prevailing wages to charter cities under an analysis that argues that the payment of prevailing wages is a matter of statewide concern. The California Supreme Court declined an opportunity to resolve the issue. *See City of Long Beach v. Dept.of Indus. Relations*, 34 Cal. 4th 942 (2004).
Finance and Taxing Power	May impose the same kinds of taxes and assessment as charter cities. *See* Cal. Gov't Code § 37100.5. Imposition of taxes and assessments subject to Proposition 218. Cal. Const. art.XIIIC. Examples of common forms used in assessment district financing include: • Improvement Act of 1911. Cal. Sts. & High. Code § 22500 *et seq.*. • Municipal Improvement Act of 1913. *See* Cal. Sts. & High. Code §§ 10000 *et seq.*. • Improvement Bond Act of 1915. Cal. Sts. & High. Code §§ 8500 *et seq.*. • Landscaping and Lighting Act of 1972. Cal. Sts. & High. Code §§ 22500 *et seq.*. • Benefit Assessment Act of 1982. Cal. Gov't Code §§ 54703 *et seq.*. May impose business license taxes for regulatory purposes, revenue purposes, or both. *See* Cal. Gov't Code § 37101. May not impose real property transfer tax. *See* Cal. Const. art. XIIIA, § 4; Cal. Gov't Code § 53725; *but see* authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (c).	Have the power to tax. Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis. Imposition of taxes and assessments subject to Proposition 218, Cal. Const. art. XIIIC, § 2, and own charter limitations May proceed under a general assessment law, or enact local assessment laws and then elect to proceed under the local law. *See J.W. Jones Companies v. City of San Diego*, 157 Cal. App. 3d 745 (1984). May impose business license taxes for any purpose unless limited by state or federal constitutions, or city charter. *See* Cal. Const. art. XI, § 5. May impose real property transfer tax; does not violate either Cal. Const art. XIIIA or California Government Code section 53725. *See Cohn v. City of Oakland*, 223 Cal. App. 3d 261 (1990); *Fielder v. City of Los Angeles*, 14 Cal. App. 4th 137 (1993).

Characteristic	General Law City	Charter City
Streets & Sidewalks	State has preempted entire field of traffic control. Cal. Veh. Code § 21.	State has preempted entire field of traffic control. Cal. Veh. Code § 21.
Penalties & Cost Recovery	May impose fines, penalties and forfeitures, with a fine not exceeding $1,000. Cal. Gov't Code § 36901.	May enact ordinances providing for various penalties so long as such penalties do not exceed any maximum limits set by the charter. *County of Los Angeles v. City of Los Angeles*, 219 Cal. App. 2d 838, 844 (1963).
Public Utilities/Franchises	May establish, purchase, and operate public works to furnish its inhabitants with electric power. *See* Cal. Const. art. XI, § 9(a); Cal. Gov't Code § 39732; Cal. Pub. Util. Code § 10002. May grant franchises to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city to allow use of city streets for such purposes. The grant of franchises can be done through a bidding process, under the Broughton Act, Cal. Pub. Util. Code §§ 6001-6092, or without a bidding process under the Franchise Act of 1937, Cal. Pub. Util. Code §§ 6201-6302.	May establish, purchase, and operate public works to furnish its inhabitants with electric power. *See* Cal. Const. art. XI, § 9(a); *Cal. Apartment Ass'n v. City of Stockton*, 80 Cal. App. 4th 699 (2000). May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city. Franchise Act of 1937 is not applicable if charter provides. Cal. Pub. Util. Code § 6205.
Zoning	Zoning ordinances must be consistent with general plan. Cal. Gov't Code § 65860.	Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance. Cal. Gov't. Code § 65803.

Foundational aspects of charter cities

What is the Constitutional Framework for Charter Cities?
Article XI, section 3(a) of the California Constitution authorizes the adoption of a city charter and provides such a charter has the force and effect of state law. Article XI, section 5(a), the "home rule" provision, affirmatively grants to charter cities supremacy over "municipal affairs." However, the California Constitution does not define the term "municipal affair."

What are "Municipal Affairs?"
The home rule provision of the California Constitution authorizes a charter city to exercise plenary authority over municipal affairs, free from any constraint imposed by the general law and subject only to constitutional limitations. *See* Cal. Const. art. XI § 5(a); *Ex Parte Braun*, 141 Cal. 204, 209 (1903); *Bishop v. City of San Jose*, 1 Cal. 3d 56, 61 (1969); *Comm. of Seven Thousand v. Super. Ct. (City of Irvine)*, 45 Cal.3d 491 (1988).

How Do the Courts Distinguish Between Municipal and Statewide Concerns?
Whether a given activity is a municipal affair over which a city has sovereignty, or a statewide concern, over which the legislature has authority, is a legal determination for the courts to resolve. Thus, the determination of whether a given activity is a municipal affair or statewide concern is done on a case-by-case basis. The court's determination will depend on the particular facts and circumstances of each case. *See In Re Hubbard*, 62 Cal. 2d 119, 128 (1964). Keep in mind that the concept of "municipal affairs" is a fluid one that changes over time as local issues become statewide concerns. *See Issac v. City of Los Angeles*, 66 Cal. App. 4th 586 (1998).

What Activities Have the Courts Classified As Municipal Affairs?
There are some areas that the courts have consistently classified as municipal affairs. Examples include the following:

- Municipal Election Matters. *See Mackey v. Thiel*, 262 Cal. App. 2d 362 (1968).
- Procedures for Initiative, Referendum and Recall. *See Lawing v. Faul*, 227 Cal. App. 2d 23, 29 (1964).
- Procedures for Adopting Ordinances. *See Brougher v. Board of Public Works*, 205 Cal. 426 (1928).
- Compensation of City Officers and Employees. Cal. Const. art. XI, § 5(b); *See Sonoma County Organization of Public Employees v. County of Sonoma*, 23 Cal. 3d 296 (1979); *but see San Leandro Police Officers Association v. City of San Leandro*, 55 Cal. App. 3d 553 (1976) (labor relations is not a municipal affair; Charter cities are subject to the Meyers-Milias Brown Act. Cal. Gov't Code § 3500.
- Processes Associated with City Contracts. *See First Street Plaza Partners v. City of Los Angeles*, 65 Cal. App. 4th 650 (1998); *but see Domar Electric, Inc. v. City of Los Angeles*, 41 Cal. App. 4th 810 (1995) (state law establishing employment policy may preempt local regulation of bidding criteria).
- Financing Public Improvements. *See City of Santa Monica v. Grubb*, 245 Cal. App. 2d 718 (1996).
- Making Charitable Gifts of Public Funds for Public Purposes. *See* Cal. Const. art. XVI, § 6; *Tevis v. City and County of San Francisco*, 43 Cal. 2d 190 (1954).
- Term Limits for Council Members. *See Cawdrey v. City of Redondo Beach*, 15 Cal. App. 4th 1212 (1993); *but see* Cal. Gov't Code § 36502(b) (regulating term limits).
- Land Use and Zoning Decisions (with a few exceptions). *See Brougher v. Bd. of Pub. Works*, 205 Cal. 426 (1928).

What Activities Have the Courts Classified as Statewide Concerns?
The following have consistently been classified by the courts as matters of statewide concern:

- School Systems. *Whisman v. San Francisco Unified Sch. Dist.*, 86 Cal. App. 3d 782, 789 (1978).
- Traffic and Vehicle Regulation. Cal. Veh. Code § 21.
- Licensing of Members of a Trade or Profession. *City and County of San Francisco v. Boss*, 83 Cal. App. 2d 445 (1948).
- Tort Claims Against a Governmental Entity. *Helbach v. City of Long Beach*, 50 Cal. App. 2d 242, 247 (1942).
- Open and Public Meetings. Ralph M. Brown Act. Cal. Gov't Code §§ 54951, 54953(a).
- Exercise of the Power of Eminent Domain. *Wilson v Beville*, 47 Cal. 2d 852, 856 (1957).

What is a charter?

A city charter is a unique document that, in many ways, acts like a constitution for the city adopting it. It can only be adopted, amended or repealed by a majority vote of a city's voters. The primary advantage of a charter is that it allows greater authority for a city's governance than that provided by state law. For example, a city may tailor its organization and elective offices, taking into account the unique local conditions and needs of the community.

A charter transfers the power to adopt legislation affecting municipal affairs from the state legislature to the city adopting it. A city operating under a charter can acquire full control over its municipal affairs. These affairs are unaffected by the general laws passed by the state legislature on the same subject matters. This, in effect, gives the local voters more control over their local government and the affairs of the city. However, a city operating under a charter is still subject to the general laws, as passed by the state legislature, on affairs that are not municipal in nature, and are of statewide concern (e.g., California Vehicle Code).

It is the scope of the term "municipal affairs" that provides the opportunity for uncertainty. No easy analytical test exists. The threshold issue is whether there is a conflict between state law and a charter city enactment. The next issue is whether the state regulation addressed an issue of "state wide concern." Courts analyze these conflicts on a case-by-case basis.

What is in a charter?

While a city charter is not required to have any particular provisions in it, a city will often reserve for itself the greatest amount of power it can when it adopts a charter. To accomplish this goal, the charter must include a declaration that it is the intention of the city to avail itself of the full power provided by the state constitution to charter cities. However, the city is not required to extend the breadth of its charter any further than it wishes.

Some of the common areas that are explicitly regulated in a charter are:

- The date and conduct of city elections;
- Regulations on the appointment of municipal officials;
- The terms and payment of municipal officials;
- The process for removal of municipal officials;
- Form of government;
- Budget adoption;
- The number, pay, qualifications, and appointment of deputies, clerks, and other employees that each municipal officer will have;
- Sub-government in all or part of the city;
- The tenure of office for deputies, clerks, and other employees;
- The process for removal of such deputies, clerks, and other employees; and
- The constitution, regulation, and government of the local police force.

A number of California cities' charters are available online. The National Civic League also has a model charter project.

Process used to adopt a charter

There are two ways to draft and adopt a city charter. The first is to elect a charter commission. The commission then has the responsibility of debating over the provisions and the drafting of the charter. The other alternative allows the governing board of the city, on its own motion, to draft the charter. In either case, the charter is not adopted by the city until it is ratified by a majority vote of the city's voters.

When using the charter commission approach, the first step is to elect the commission. The vote to elect a charter commission is called for by either a majority vote of the city's governing body or by a petition signed by not less than fifteen percent of the registered voters within the city. If the formation of a charter commission is requested by a petition, the authority in charge of the city's registration records must verify the signatures on the petition. The expense of this verification must be paid for by the city's governing board. If the petition is verified, the city's governing board must call for an election in accordance with sections 1000 and 10403 of the California Elections Code. *See* Cal. Gov't Code section 34452.

Once it has been decided that a charter commission election will take place, candidates for commissioners must be nominated. Candidates for the office of charter commissioner are nominated either in the same manner as officers of the city or by petition. A candidate for charter commissioner must be a registered voter of the city. After the election of commissioners, any vacancy on the commission will be filled by a mayoral appointment. *See* Cal. Gov't Code section 34452.

At an election for charter commission members, the voters will vote first on the following question: "Shall a charter commission be elected to propose a new charter?" After voting on this question, the voters will then vote for the charter commission candidates. If a majority of the voters vote for the formation of a charter commission, then the top fifteen candidates for the office of charter commissioner will be organized as the city's charter commission. No commission will be formed if a majority of voters vote against the election of a charter commission. *See* Cal. Gov't Code section 34453.

Once formed, the charter commission will have the responsibility of developing the city's charter. After a simple majority of commissioners have decided that the proposed charter is appropriate, they file the charter with the city's clerk in preparation for a vote by the city's electorate. *See* Cal. Gov't Code section 34455. However, instead of sending the whole charter at once, periodically the commission may send portions of the charter to the city's electorate for a vote. *See* Cal. Gov't Code section 34462.

After the charter (or portions of it) has been filed, it must be copied in type greater than 10 point and either mailed to all the voters of the city or made available to those citizens who wish to review it before the election. The city may show the difference between existing provisions of law and the new charter through the use of distinguished type styles, but this is not required. *See* Cal. Gov't Code section 34456.

After the charter has been filed with the city clerk, the city's governing board must decide whether to call a special election or to wait until the next established municipal election to submit the charter to the voters. If the city's governing board determines that a special election should be held, then they must call for that special election within 14 days of the charter being filed. The special election must be set at least 95 days after the date from which the special election was called. *See* Cal. Gov't Code section 34457. In any case, the charter commission must send the charter to the voters within two years of the vote that formed the commission. Upon the expiration of the two-year time period, the commission is abolished. *See* Cal. Gov't Code section 34462.

The alternative to electing a charter commission is to have the city's governing board develop and draft the charter. An election to decide on the adoption of a charter may be called by initiative or the city council. *See* Cal. Const. art. XI, § 3. On its own motion, the city's governing board may propose a charter and submit it to the voters for adoption. *See* Cal. Gov't Code section 34458. With this option, the governing board can call a special election or allow the charter to be voted on at any established election date, as long as that election date is at least 88 days after the proposed charter was filed with the city clerk. *See* Cal. Gov't Code section

34458. As a practical matter, an election may have to be called sooner than 88 days before the election in order to meet certain notice and ballot printing deadlines.

In either case, the majority of voters must vote in favor of the proposed charter for it to be ratified. The charter will not go into effect until it has been filed and accepted by the Secretary of State. *See* Cal. Gov't Code section 34459. After a charter is approved by a majority vote of the voters, the mayor and city clerk shall certify that the charter was submitted to the voters of the city and that it was approved by a majority vote. *See* Cal. Gov't Code section 34460. One copy of the approved charter shall be filed with the County Recorder's office and one shall be kept in the City's archive. *See* Cal. Gov't Code section 34460. A third copy of the charter must be submitted to the Secretary of State with (1) copies of all publications and notices in connection with the calling of the election; (2) certified copies of any arguments for or against the charter proposal which were mailed to the voters; (3) a certified abstract of the vote at the election on the charter. *See* Cal. Gov't Code section 34460.

How to amend or repeal a charter

If a citizens group, or the city's governing body, wishes to amend or repeal a portion of the city's charter, the steps remain largely the same as they are for drafting a charter. There are, however, two notable exceptions. First, the petition calling for the repeal or amendment needs only ten percent of the electorate's signatures, instead of the previous fifteen percent. *See* Cal. Elec. Code sections 9215 and 9255. The other notable difference has to do with the charter itself. A city charter may establish different rules for the municipal elections process than those laid out by the state legislature in the Elections Code. If this is the case, the city's charter will govern the elections process used to appeal or amend the city's charter, instead of the general laws laid out in the Elections Code.

Charter Cities

Adelanto
Alameda
Albany
Alhambra
Anaheim
Arcadia
Bakersfield
Berkeley
Big Bear Lake
Buena Park
Burbank
Carlsbad
Cerritos
Chico
Chula Vista
Compton
Culver City
Cypress
Del Mar
Desert Hot Springs
Dinuba
Downey
Eureka
Exeter
Folsom
Fortuna
Fresno
Gilroy
Glendale
Grass Valley
Hayward
Huntington Beach
Indian Wells
Industry
Inglewood
Irvine
Irwindale
Kingsburg
La Quinta
Lemoore
Lindsay
Loma Linda
Long Beach
Los Alamitos
Los Angeles
Marina
Marysville
Merced
Modesto
Monterey
Mountain View
Napa
Needles
Newport Beach
Norco
Oakland
Oroville
Pacific Grove
Palm Desert
Palm Springs
Palo Alto
Pasadena
Petaluma
Piedmont
Placentia
Pomona
Port Hueneme
Porterville
Rancho Mirage
Redondo Beach
Redwood City
Richmond
Riverside
Roseville
Sacramento
Salinas
San Bernardino
San Diego
San Francisco
San Jose
San Leandro
San Luis Obispo
San Marcos
San Mateo
San Rafael
San Ramon
Sand City
Santa Ana
Santa Barbara
Santa Clara
Santa Cruz
Santa Maria
Santa Monica
Santa Rosa
Santee
Seal Beach
Shafter
Signal Hill
Solvang
Stockton
Sunnyvale
Temple City
Torrance
Truckee
Tulare
Vallejo
Ventura
Vernon
Victorville
Visalia
Vista
Watsonville
Whittier
Woodlake

Total Cities: 114

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